

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No. 17-3310
v.	:	
	:	Board Case No.:
ALLIED CRAWFORD STEEL	:	04-CA-174095
	:	
Respondent	:	

REPLY OF THE NATIONAL LABOR RELATIONS BOARD
TO ALLIED’S ANSWER TO THE BOARD’S APPLICATION
FOR SUMMARY ENFORCEMENT OF ITS ORDER

To the Honorable, the Judges of the United States
Court of Appeals for the Third Circuit:

The National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, files this reply to the November 13, 2017 Response of Allied Crawford Steel (“Allied”) to the Board’s application for summary entry of a judgment enforcing its order. For the following reasons, the Board submits that Allied has failed to advance any valid defenses to the Board’s application, and accordingly, that the application should be granted.

1. Allied admits to all points in the Board’s application for summary enforcement of the Board’s order and alleges it has complied with the Board’s order. Compliance is not a defense to enforcement of a Board order. It is well settled by decisions of the Supreme Court and other courts, that even full

compliance with the terms of a Board order is no barrier to enforcement of the order by a court. *NLRB v. Mexia Textile Mills, Inc.*, 339 U.S. 564, 567-568 (1950). *See also NLRB v. National Car Rental System, Inc.*, 672 F.2d 1182, 1191 (3d Cir. 1982) (Any issues about compliance with the Board's order may be litigated, if necessary, in further proceedings.)

2. Although Allied alleges that it has complied with the Board's order, it fails to mention that the Board and Allied have a dispute over what constitutes compliance in this case. To briefly recap, it came to the Board's attention when Allied posted the required Notice to Employees that it also posted a side notice from Allied's owner. The side notice stated, "I, personally, still deny the allegations" It is the Board's position that these actions undermine and minimize the effect of the Board's notice and constitute noncompliance. *See generally Bingham-Willamette Co.*, 199 NLRB 1280, 1281-1282 (1971); *Thyssenkrupp Stainless USA, LLC*, 365 NLRB No. 127 (Sept. 7, 2017); *Arrow Specialties*, 177 NLRB at 308 (1969); *Gould, Inc.*, 260 NLRB at 58 (1982); *Bangor Plastics, Inc.*, 156 NLRB 1165, 1167 (1966). Allied was told to repost the notice for 60 days without the side notice. After numerous discussions between the parties, on October 4, 2017, counsel for Allied emailed the Regional Compliance Officer and stated, "My client will not agree to repost the

notice as you have requested.” *See* Attachment A. As a result, even Allied’s representation that it has complied with the Board’s Order is not supported.

WHEREFORE, for the reasons stated in the Board’s Application and in this Reply, the Board respectfully requests that the Court summarily enter judgment enforcing the Board’s order.

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, S.E.
Washington, D.C. 20570

Dated in Washington, D.C.
this 15th day of November, 2017

From: Brandon S. Williams <brandonw@CapozziAdler.com>
Sent: Wednesday, October 04, 2017 11:50 AM
To: Thurman, Shane D.
Subject: RE: Allied Crawford Steel, 4-CA-174095

My client believes it has complied with the Board's Order. My client will not agree to repost the notice as you have requested.

Brandon

Brandon S. Williams

CAPOZZI ADLER, P.C.
2933 North Front Street
Harrisburg, PA 17110-1250
(717) 233-4101
(717) 233-4103 (FAX)
Email: BrandonW@CapozziAdler.com
Website: www.CapozziAdler.com

This electronic transmission and any documents accompanying this electronic transmission contain confidential information belonging to the sender. This information may be legally privileged. The information is for the intended recipient only. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on or regarding the contents of this electronically transmitted information is strictly prohibited. Any individual who receives this transmission but is not the intended recipient, is requested to notify Capozzi Adler, P.C., by return electronic mail and by telephone at (717) 233 4101.

From: Thurman, Shane D. [mailto:Shane.Thurman@nlrb.gov]
Sent: Monday, October 02, 2017 11:49 AM
To: Brandon S. Williams
Subject: RE: Allied Crawford Steel, 4-CA-174095

Mr. Williams,

It's our view that the statement, "I, personally, still deny the allegations", clearly minimizes the effect of the Board's Notice by indicating to the employees that the Respondent does not believe that it violated the law. The fact that it violated the law is explicitly stated in the Notice. The Respondent does not have the privilege of posting the Board Notice and then denying or contradicting the underlying contents of the Board's Notice. In these circumstances, we are seeking for the Respondent to remedy this defect in the Notice posting by removing the side Notice and keeping the Board Notice posted for an additional 60 days. We don't view this as an unreasonable or onerous request. Please let me know the Respondent's final decision on this issue by Wednesday, October 4, 2017.

Shane Thurman
Compliance Officer

ATTACHMENT A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No. 17-3310
v.	:	
	:	Board Case No.:
ALLIED CRAWFORD STEEL	:	04-CA-174095
	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2017, I electronically filed the foregoing document with the Court for the United States Court of Appeals for the Third Circuit using the appellate CM/ECF system. I further certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

s/Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570

Dated at Washington, D.C.
this 15th day of November, 2017